

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

DAVID NGUYEN,

Appellant,

v.

DEPARTMENT OF HEALTH,

Respondent.

Case No. ALLO-03-0027

ORDER OF THE BOARD FOLLOWING
HEARING ON EXCEPTIONS TO THE
DETERMINATION OF THE DIRECTOR

Hearing on Exceptions. This appeal came on for hearing before the Personnel Appeals Board, BUSSE NUTLEY, Member, on Appellant's exceptions to the director's determination dated December 3, 2003. The hearing was held at the Personnel Appeals Board, 2828 Capitol Boulevard, Olympia, Washington, on July 14, 2004. GERALD L. MORGEN, Vice Chair, listened to the recorded proceedings, reviewed the file and exhibits and participated in this decision.

Appearances. Appellant David Nguyen was represented by Kirk Hanson of the Washington Federation of State Employees. Cecilia Garcia, Human Resource Consultant, represented Respondent Department of Health.

Background. On March 25, 2003, Appellant submitted a Classification Questionnaire (CQ) to Cecilia Garcia, Human Resource Consultant at the Department of Health requesting his position be reallocated from Laboratory Technician 2 (LT2) to Laboratory Technician 3 (LT3). Ms. Garcia determined Appellant's position was properly allocated at the LT2 level. On September 24, 2003, Paul L. Peterson, Personnel Hearings Officer, held an allocation review. By letter dated December 3, 2003, Mr. Peterson advised Appellant his position was properly allocated to the LT2

1 classification because his duties are best characterized as “complex” rather than “very complex.”

2 On December 30, 2003, Appellant filed an appeal with the Personnel Appeals Board.

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4 **Summary of Appellant’s Argument.** Appellant argues he has been a long-term employee of the
5 Department of Health, Public Health Laboratory and has performed duties equivalent to the LT3
6 level for at least seven years, including working on Saturdays. Appellant contends his duties are
7 complex in nature and include mouse bioassay testing weekly to determine paralytic shellfish
8 poisoning (PSP) levels. Appellant asserts he inoculates mice, at times administering multiple
9 inoculations per sample, to accurately calculate toxin levels and then enters the results into a
10 database. Appellant argues the accuracy of his work helps develop the standard criterion for daily
11 quality control and also determines the number of mice needed to complete the testing. Appellant
12 argues he uses the precise amount of extract to inject the mouse and is very consistent in correlating
13 the mouse’s time of death to the level of biotoxins, which corresponds to the shellfish toxin rate.
14 Appellant argues the shellfish program depends on the accuracy of his work to monitor toxicity.
15 Appellant contends he works with minimal supervision and is in charge of the unit in the lead
16 worker’s absence.

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18 **Summary of Respondent’s Argument.** Respondent argues that while Appellant does inoculate
19 mice, he only performs testing in the biotoxins unit approximately thirty-five percent of his work
20 time. Respondent further asserts that while Appellant is very efficient at performing tests and
21 calculating results, the final outcome is approved by a lead chemist. Respondent contends that
22 Appellant occasionally provides back up for the lead position, but it is not his primary duty, and he
23 is not responsible for ordering mice or training other staff. Respondent contends Appellant spends
24 the majority of his workday on sample preparation and testing that is routine for lab technicians and
25 is encompassed in the duties for LT1 and LT2 positions as well. Respondent argues Appellant’s
26 laboratory duties are characterized as complex but not very complex. Respondent asserts very

1 complex duties involve a multiple step process to achieve final results. Respondent also asserts the
2 LT3 position requires specific scientific knowledge for instrument operation, results interpretation,
3 development of new techniques based on research, and the ability to identify and resolve unusual
4 problems.

5
6 **Primary Issue.** Whether the director's determination that Appellant's position is properly allocated
7 to the Laboratory Technician 2 classification should be affirmed.

8
9 **Relevant Classifications.** Laboratory Technician 2, class code 53120; Laboratory Technician 3,
10 class code 53140.

11
12 **Decision of the Board.** The purpose of a position review is to determine which classification best
13 describes the overall duties and responsibilities of a position. A position review is neither a
14 measurement of the volume of work performed, nor an evaluation of the expertise with which that
15 work is performed. Also, a position review is not a comparison of work performed by employees in
16 similar positions. A position review is a comparison of the duties and responsibilities of a particular
17 position to the available classification specifications. This review results in a determination of the
18 class which best describes the overall duties and responsibilities of the position. Liddle-Stamper v.
19 Washington State University, PAB Case No. 3722-A2 (1994).

20
21 The issue before us is whether Appellant performs complex or very complex laboratory
22 determinations. There is no question Appellant is proficient and knowledgeable in his field. After
23 carefully scrutinizing the documentation, we find Appellant performs only one of the very complex
24 duties, related to hormone assays, as outlined in the LT3 specification. Therefore, the majority of
25 duties Appellant performs on a daily basis are accurately categorized as **complex** rather than **very**
26 **complex.**

1 The definition for the class of Laboratory Technician 2 states:

2
3 Supervises or leads technicians and/or assistants in a small laboratory or major
4 specialized unit of a large clinical laboratory and/or may perform a wide variety
of **complex laboratory** determinations.

5 (emphasis added).

6
7 The distinguishing characteristics for a Laboratory Technician 2 state, in relevant part,
8 “[p]ositions allocated to this class are filled by experienced Laboratory Technicians who
9 are expected to independently perform **complex laboratory** procedures and interpret
10 findings.”

11
12 The definition for the class of Laboratory Technician 3 states:

13
14 Supervises or leads the technologists, technicians, and assistants in a large clinical
15 or research laboratory; performs **very complex laboratory** determinations in a
specialized field.

16 (emphasis added).

17 Many of the duties between the two classes overlap, and the knowledge and abilities required for
18 each position are nearly identical. Therefore, the primary distinction between the two classes is the
19 level of complexity and responsibility. The very complex duties listed in the LT3 specification
20 include:

21
22 . . . procedures in specialty laboratory, e.g., hormone assays, TB parasite,
23 seriological analysis, tissue culture, electrophoresis, thin layer chromatography
24 and fluorometric analysis; performs new procedures resulting from research
studies; records and summarizes data on laboratory analyses;

1 Therefore, the decision that Appellant's duties are more appropriately allocated to the Laboratory
2 Technician 2 classification should be affirmed.

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4 **Conclusion.** The appeal on exceptions by Appellant should be denied, and the Director's
5 determination dated December 3, 2003, should be affirmed and adopted.

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7 **ORDER**

8 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Appellants is
9 denied, and the attached Director's determination, dated December 3, 2003, is affirmed and
10 adopted.

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12 DATED this _____ day of _____, 2004.

13
14 WASHINGTON STATE PERSONNEL APPEALS BOARD

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16 _____
Gerald L. Morgen, Vice Chair

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18 _____
Busse Nutley, Member